

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED
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FEB 12 2015

PER
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DARBY INDUSTRIES, INC.

Plaintiff,

v.

TRICAM INDUSTRIES, INC.

Defendant.

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'3'

CIVIL ACTION NO. 15-CV- 309

JURY TRIAL DEMANDED

COMPLAINT

COMES NOW, the plaintiff, Darby Industries, Inc., ("Darby") by and through its undersigned counsel, and for its complaint against defendant Tricam Industries ("Defendant" or "Tricam"), allege as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising out under the patent laws of the United States, 35 U.S.C. §§ 1 *et. seq.* and in particular §§ 271 and 281-285.
2. The Court has original jurisdiction over this patent infringement action pursuant to 28 U.S.C. §§ 1331 & 1338(a).
3. Plaintiff Darby is a corporation existing under and by virtue of the laws of the Commonwealth of Pennsylvania with principal offices located at RR 1, Box 311, Falls, Pennsylvania 18615.
4. Upon information and belief, defendant Tricam is a corporation duly formed and existing under the laws of the State of Minnesota.

5. Upon information and belief, at all times material to this Complaint, Tricam has engaged in business in Pennsylvania.

JURISDICTION AND VENUE

6. This Court has personal jurisdiction over defendant Tricam because, on information and belief, Tricam has committed, and continues to commit, acts of patent infringement in this judicial district and elsewhere.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) & 1400(b) because, on information and belief, Defendant has committed acts of patent infringement in this judicial district.

FACTS

8. On September 14, 1999, the United States Patent and Trademark Office duly and legally issued United States Patent Number 5,950,890 in the name of Kenneth S. Darby and entitled Combination Roof or Bed Height Load Support (hereafter "Patent" or "'890 Patent"). A copy of the '890 Patent is attached hereto and incorporated by reference as if fully set forth herein.

9. Through assignment Darby is the owner of all rights, title, and interest in the '890 Patent, including all rights to pursue and collect damages for past infringement of the claims of the '890 Patent.

10. Defendant Tricam unlawfully and without authorization has in the past, and continues to use, import, sell and offer for sale products covered by one or more claims of the '890 Patent.

11. Darby has been damaged by the Defendant's acts of patent infringement and seeks damages and injunction relief preventing Tricam from further acts of making, using, selling, or offering to sell, the technology claimed by the Patent without Darby's permission.

CLAIM FOR PATENT INFRINGEMENT

12. Darby incorporates by reference each of the allegations in paragraphs 1-11 above as if fully set forth herein and further alleges as follows:

13. Tricam has infringed the one or more of claims '890 patent, and unless enjoined, will continue to do so by making, using, offering for sale, selling and importing "steel load extenders" for example, the SLE1, that infringe the claims of the '890 Patent.

14. Darby has been damaged by Tricam's unlawful infringement of the claims of the '890 Patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Tricam is enjoined from continuing to infringe the claims of the '890 Patent.

15. Darby is entitled to recover damages from Tricam to compensate for the infringement.

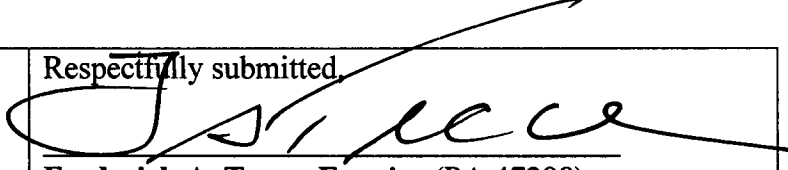
PRAYER FOR RELIEF

WHEREFORE, plaintiff Darby Industries, Incorporated prays for judgment as against defendant Tricam Industries, Incorporated as follows:

1. For an order preliminarily and permanently enjoining Defendant, its officers, directors, employees, agents, and all persons in active concert with them, from further acts of infringement of the claims of the '890 Patent;

2. Awarding all damages suffered by Darby through Defendant's infringement of the claims of the Patent;

3. An accounting of Defendant's gross and net profits from infringement of the patent;
4. Preliminarily and permanently enjoining the Defendant and all those in active concert therewith from further acts of patent infringement;
5. Costs of suit and attorneys' fees;
6. Pre-judgment interest; and
7. For such other relief as justice requires.

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| DATED: February <u>11</u> , 2015 | Respectfully submitted, |
| <u>OF COUNSEL:</u> |  |
| Susan D. Pitchford, Esquire Chernoff Vilhauer LLP 601 SW Second Ave., Suite 1600 Portland, OR 97204 Telephone: (503) 227-5631 Facsimile: (503) 228-4373 | Frederick A. Tecce, Esquire (PA 47298) PANITCH SCHWARZE BELISARIO & NADEL LLP One Commerce Square – Suite 2200 2005 Market Street Philadelphia, PA 19103 Telephone: (215) 965-1330 Facsimile: (215) 965-1331 Email: ftecce@panitchlaw.com |
| | <i>Attorneys for Plaintiff Darby Industries, Incorporated</i> |



US005950890A

United States Patent [19]

Darby

[11] **Patent Number:** **5,950,890**
 [45] **Date of Patent:** **Sep. 14, 1999**

[54] **COMBINATION ROOF OR BED HEIGHT LOAD SUPPORT**

[76] **Inventor:** **Kenneth S. Darby**, RR 1 Box 311, Falls, Pa. 18615

[21] **Appl. No.:** **09/158,667**

[22] **Filed:** **Sep. 22, 1998**

[51] **Int. Cl.⁶** **B60R 9/00**

[52] **U.S. Cl.** **224/402; 224/403; 224/485; 224/488; 224/495; 224/506; 224/519**

[58] **Field of Search** **224/485, 488, 224/506, 518, 519, 402, 403, 520, 521, 495, 531, 532, 533, 534; 296/26, 3**

[56] **References Cited**

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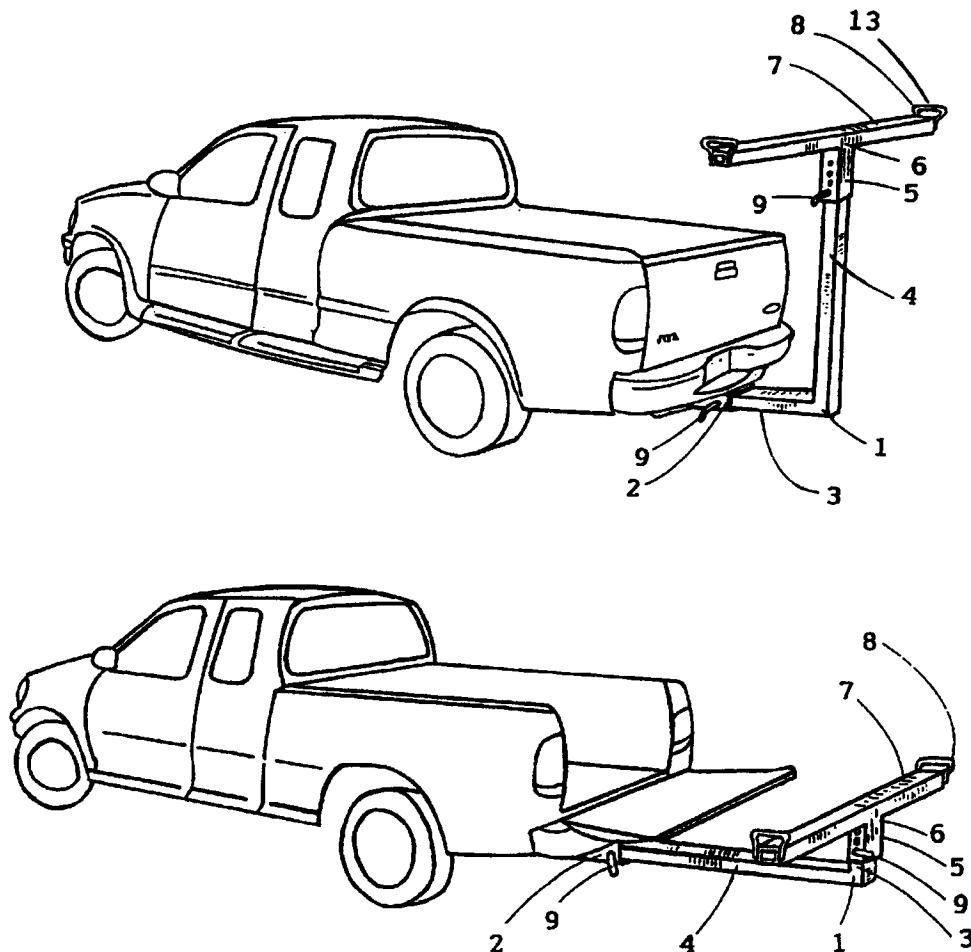
Primary Examiner—Allan N. Shoap

Assistant Examiner—Maerena W. Brevard

[57] **ABSTRACT**

A combination load support for use as a roof height carrier or pickup box extender that inserts into a standard receiver hitch. The device provides support for one end of ladders, canoes, etc. and the pickup cab or sport utility roof provides support for the other end. When one section of this combination load support is inserted in the opposite direction, long loads extending beyond the pickup truck's tailgate can be supported.

3 Claims, 2 Drawing Sheets

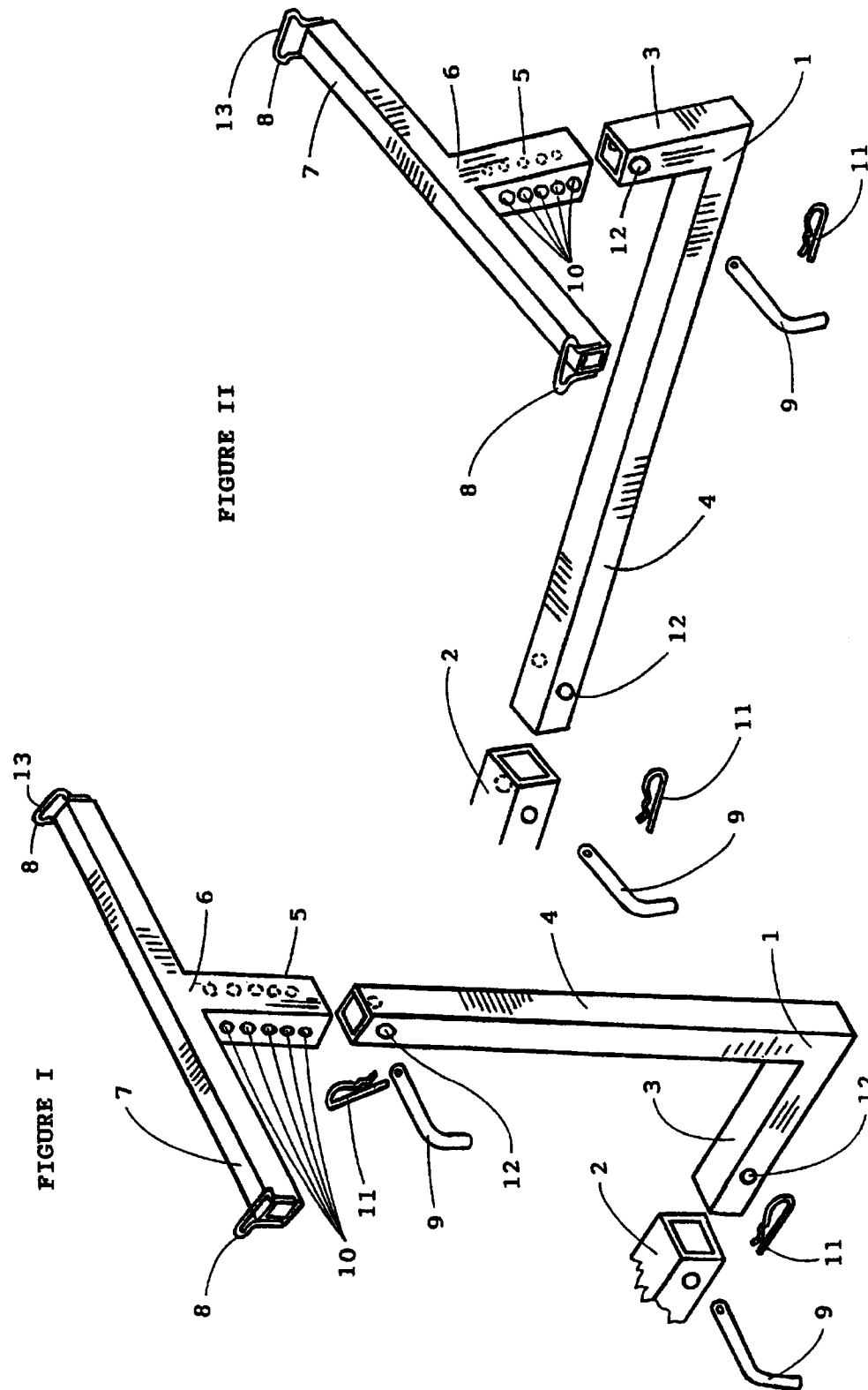


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FIGURE III

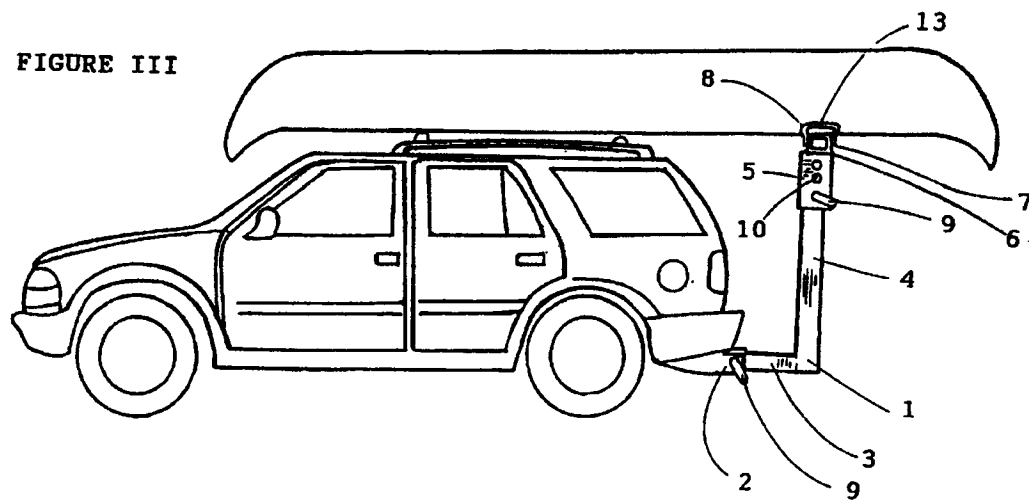


FIGURE IV

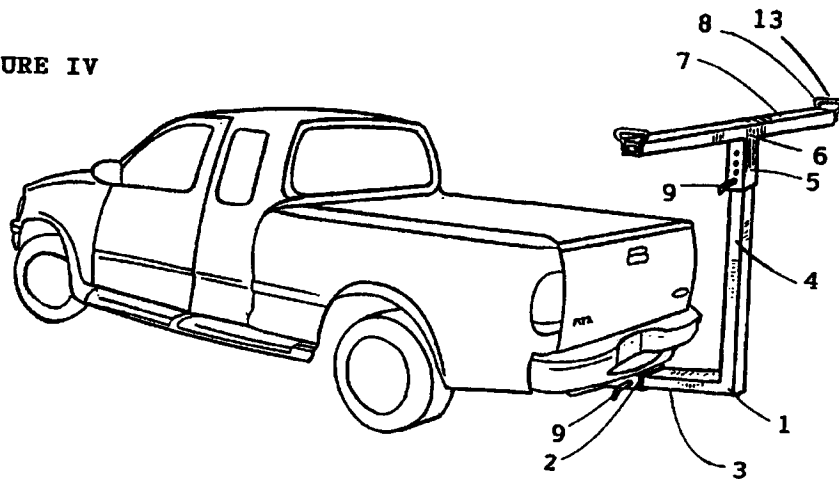
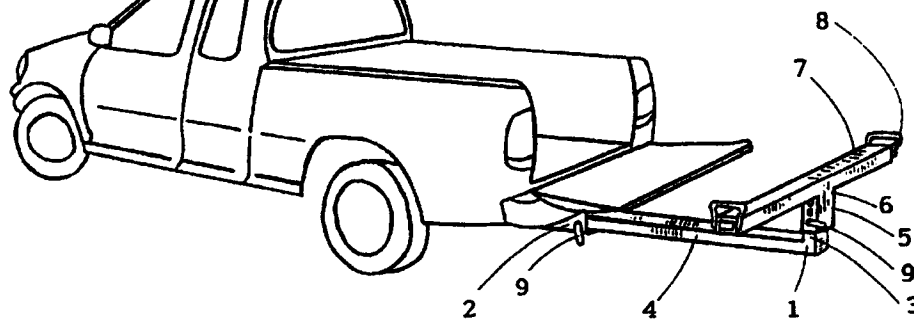


FIGURE V



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COMBINATION ROOF OR BED HEIGHT LOAD SUPPORT

FIELD OF INVENTION

This invention relates to a combination load support that inserts into a receiver hitch and can either support items carried on top of a vehicle or items that extend beyond the pickup truck box.

BACKGROUND OF THE INVENTION

Many sport utilities have a rack on the roof for carrying various loads but often these racks are not strong enough to carry long loads such as a 17-foot canoe or long lumber. There is also a need to carry long items such as a ladder or canoe on top of a pickup truck while carrying other items in the pickup truck box. Many of the new pickup trucks have larger cabs and in turn a shorter pickup box for carrying loads. This present invention relates to a combination load support that solves both problems of carrying long loads on top of the roof or elongated loads that stretch out behind the pickup truck box.

Various units are available to do either one of these jobs but fail to do both roof top carrying and pickup box extending with one device. With a pickup truck it is often an advantage to carry a long item such as a ladder at the height of the cab roof so that other items and tools can be carried in the pickup truck box.

Prior racks such as Broad and Young insert into a receiver hitch and support a load extending beyond the bed of a truck. Neither will aid in supporting a load at the level of the roof. Broad has a pair of eyebolts, one on each end of the load rest. These eyebolts would work with a rope but not well with hold-down straps if the straps and their anchoring devices are too broad for the eyebolts.

Young had load holders extending vertically from each end of the horizontal support bar. They are welded and not adjustable with no means for fastening a rope or hold-down straps to secure the load. Young's load holders have a solid top which would not allow for easy tie down.

Vieira can support a load at the height of the roof but requires a separate unit to support a load extending from the bed of the truck. Vieira's two units are welded, are not adjustable, and are awkward to store.

It would be an advantage to the user if one apparatus could support loads on the roof of a pickup or a sport utility and also be adjusted to support loads extending beyond the tailgate of a pickup truck box.

This apparatus should be easy to assemble or disassemble and require only a small amount of storage space such as behind the seat of a pickup truck.

OBJECTS OF THE INVENTION

It is an object of the present invention to provide a load support for two different needs which prior to this invention required two separate load supports.

Another aspect of the present invention is to provide a device that is easily attached to and detached from the vehicle without the use of special tools and equipment.

This combination roof level load support and pickup box extender makes use of a standard receiver hitch.

Still another aspect of this invention is to supply a means to tie down the load being supported by this device using hold-down cleats that will not fray a rope or strap and are wide enough to accept even flat ends of ratchet tie-down straps.

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It is a further object of this invention to provide a load support for roof level and bed level of both sport utility vehicles and pickup trucks and for said device to be adjustable to accommodate all models of both types of vehicles.

SUMMARY

An apparatus to be used as a load support having a combination of uses. One use is to support the back end of a long load at roof height where the front end is supported by the roof of the vehicle. The other use is to support a long load extending from the pickup truck box.

This load support apparatus consists of an "L"-shaped device that inserts into the receiver hitch of the vehicle and into the vertical tube projecting downward of the "T" bar which supports the load. When the short leg of the "L" section is inserted in the receiver hitch the long leg rises vertically high enough to support the "T" bar at roof height. When the long leg of the "L" section is inserted in the receiver hitch, the short leg of the "L" rises vertically enough to support the "T" bar at the level of the bed of a pickup truck. The "T" bar and the "L" section are held in place by a pin in one of several holes which allows a height adjustment to accommodate the needed height of various models of pickup trucks and sport utility vehicles.

The "T" bar section has a means to secure the load using hold-down cleats that are smooth, rounded and formed to provide a flat area to accommodate hold-down straps or a rope.

BRIEF DESCRIPTION OF THE DRAWING

FIG. I—Illustrates an exploded perspective view of the load support positioned to support roof height loads.

FIG. II—Illustrates an exploded perspective view of the load support positioned to support pickup truck bed height loads.

FIG. III—Illustrates a side view of a sport utility vehicle with the combination load support.

FIG. IV—Illustrates a perspective view of a pickup truck with a combination load support adjusted to the roof height.

FIG. V—Illustrates a perspective view of a pickup truck with the combination load support adjusted to the bed height.

REFERENCE TO NUMERALS IN DRAWINGS

- 1.—"L" section
- 2.—Insertion hitch
- 3.—Short leg
- 4.—Long leg
- 5.—Lower leg
- 6.—"T" Lower leg
- 7.—Horizontal support bar
- 8.—Tie down cleats
- 9.—Pin 13.
- 10.—Adjustment holes
- 11.—Pin keeper
- 12.—Holes
- 13.—Flat area

DETAILED DESCRIPTION OF THE DRAWING

FIG. I—Illustrates an exploded view with the "L" section (1) adjusted to provide roof height support. The "L" shaped section (1) has holes (12) drilled through both sides of the tubing at both ends of the "L" section (1). "L" section (1) has the long section of the "L" (4) vertical and the short leg of the "L" (3) horizontal.

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Shown above the "L" section is the "T" support bar (6) having the lower leg (5) of the "T" constructed of larger tubing that will slip on the outside of either end of the "L" section (1) drilled with numerous holes (10) through both sides of the tubing to allow height adjustments. The "T" bar (6) has a horizontal support bar (7) with two tie-down cleats (8), one at each end. These tie-down cleats (8) are round to eliminate any fraying and are formed with a flat area (13) to accommodate hold-down straps with flat metal ends. The adjustment to proper height is accomplished by sliding the "T" (6) with holes (10) over the "L" (1) and inserting pin (9) when the holes line up for the desired height of the support bar (7). The keeper pin (11) holds pin (9) in place.

FIG. II—Illustrates the "L" shaped section of the load support (1) reversed so as the long leg (4) of the "L" section is horizontal and the short leg (3) is vertical. The lower portion (5) of "T" bar (6) can be slid around the end of the "L" section (1) as in FIG. I to now provide support for a load at a pickup truck bed height.

FIG. III—Illustrates a combination load support with the short leg (3) of the "L" section (1) inserted into the receiver hitch and the long leg (4) extending vertically and inserted into the bottom (5) of the "T" (6) with a horizontal support bar (7) and smooth tie-down cleats (8).

The "T" section (6) is adjustable up and down by inserting a pin (9) through adjustment holes (10) and the hole (12) of the "L" section (1). The "L" section (1) in the receiver hitch (2) is held in place by another pin (9). The pins (9) are retained in place by a keeper pin (11). The "L" section (1) has holes (12) drilled through both sides near each end. The "T" bar (6) has several holes (10) drilled through the sides of the lower leg (5) for height adjustment of the support bar.

FIG. IV—illustrates the use of this adjustable load support with the short leg (3) of "L" section (1) inserted in the insertion hitch (2) and the long leg (4) reaching vertically to support a roof height load on the "T" bar (6).

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FIG. V—Illustrates the use of this adjustable load support with the long leg (4) of the "L" section (1) inserted in the hitch (2) and the short leg (3) of "L" (1) rising vertically to accept "T" bar (6) to support a load at the bed height of the pickup truck.

What I claim is:

1. A load support device for attachment to a receiver hitch of a vehicle, the device comprising an L-shaped member having a first part and a second part extending transverse to the first part, said first part being longer than the second part, said first part having a free end selectively attachable to the hitch receiver of the vehicle, said second part having a free end selectively attachable to the receiver hitch of the vehicle; and a support member for selective attachment to one of the free ends, said support member including a means for adjusting the height of the device and tie-down cleats secured thereto; wherein, in a first use, the free end of the first part is selectively attached to the receiver hitch and the support member is adjustably attached to the free end of the second part to support a load at a bed height of the vehicle and, in a second use, the free end of the second part is selectively attached to the receiver hitch and the support member is adjustably attached to the free end of the first part for supporting a load at a roof height of the vehicle.

2. The device in claim 1, said tie-down cleats further comprising rounded edges so as not to fray a rope or a strap and has a broad enough opening to accept flat straps with metal ends.

3. The device in claim 1, wherein said support member defines a T-shaped member with multiple holes on both sides of the lower side of the T-shape to allow a pin to be inserted through one side of the T-shaped support member, through both sides of the inserted L-shaped member, and out through the other side of the T-shaped support member securing the load support at the needed height.

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